



Policy Proposals for the Freedom of Information, Open Meetings and Public Records Study Committee

Introduction

Iowa hospitals are faced with many challenges in maintaining a high quality and efficient health care system. In addition, approximately half of Iowa's hospitals are publicly owned and operated and therefore are subject to additional regulation under Iowa law. Many of these statutes can restrict a public hospital's ability to operate successfully and efficiently within the modern health care environment.

Throughout the 2007 legislative interim, an Iowa Hospital Association work group consisting of representatives from all types of public hospitals undertook a thorough review of the present statutes governing public hospitals, specifically examining areas needing legislative changes in order to assist public hospitals to effectively function in today's health care environment. The result of this study revealed two issues with the open meetings/public records laws which place public hospitals at operational disadvantages.

Background

Fifty-eight of Iowa's 117 hospitals are public governed as either county or municipal hospitals. While Iowa's public hospitals adhere to the statutes regulating public entities, they are very unique as compared to other public institutions in the state. First, half of Iowa's hospitals are public, and half are private; but all provide the same essential services. The public hospitals thus compete directly with their private counterparts.

Secondly, unlike most public institutions, very little of public hospitals' total revenues come from tax support. Tax appropriations account for an average of 5 percent of county hospital revenue, outside of Polk County, with many county hospitals not utilizing their levy at all. The 15 municipal hospitals in the state have no ability to levy taxes and thus have the unenviable position of complying with all of the public statutes without any public tax support.

Competitive Information

Iowa Code § 388.9 provides an exception to the Open Meetings law (Iowa Code § 21.5) for a city utility or combined utility system or a city enterprise or combined city enterprise "to discuss marketing and pricing strategies or proprietary information if its competitive position would be harmed by public disclosure not required of potential or actual competitors, and if no public purpose would be served by such disclosure."

The definition of a city enterprise in Iowa Code § 384.24(h) includes a hospital or health system. Accordingly, the 15 municipal (city-owned) hospitals in Iowa have the ability to hold a closed session to discuss competitive information when necessary. This exception is very important for these hospitals because they compete directly with private and other public hospitals.

The 43 county hospitals, which have the same competitive concerns as municipal hospitals and other city enterprises, are not afforded the same exception for competitive information under Iowa law. As can be imagined, it is very difficult for county hospitals to discuss competitive

strategies at a board meeting that in many cases is televised, allowing their competitors to have free access to proprietary information. **The Iowa Hospital Association supports extending the open meetings exception for city enterprises in Iowa Code § 388.9 to county hospitals.** Corresponding changes should also be made to make Chapter 22 consistent with this exception.

Process Improvements

The increased public attention on patient safety coupled with the continuing quest for quality creates heightened accountability for the outcomes of patient care. This heightened accountability rests squarely upon hospital boards to insure safe practices and responsible public reporting. Today's hospital boards must take a proactive approach to improve performance and focus on improved patient care.

Hospital boards have the legal and fiduciary responsibility for the quality of care provided in community hospitals. Part of the responsibility of a hospital trustee includes insuring that the hospital is engaged in continuous quality improvement including process changes that ultimately improve patient outcomes. However, unlike their private counterparts, public hospital boards often do not feel that they can engage in these discussions at the board level due to the open meetings laws. This provides a disservice to those boards and ultimately to the community and patients that the hospital serves.

Safe patient care and its evaluation is a key board responsibility, but meeting all of the demands on the quality journey is often perplexing and difficult. All hospital boards must have the ability to sort through the organization's processes, assessments and outcomes in order to facilitate performance improvement and thus meet their fiduciary and legal responsibilities of insuring quality patient care.

Due to the often sensitive nature of this information, public hospital boards must have the ability to hold a closed session to allow boards to probe deeply and protect patient privacy. While these conversations would not necessarily include specific patient identifiers, they would very often include enough information about a procedure that in a smaller rural hospital the discussion would likely allow the audience to learn or believe that they know the patient's identity. If the community perceives that a hospital cannot protect a patient's privacy, the hospital will struggle to serve community members for elective or planned procedures, ultimately jeopardizing the hospital's financial stability.

Iowa hospitals are committed to being transparent and to responsible public reporting. Hospitals in Iowa voluntarily report more information for the public through the Iowa Healthcare Collaborative than any other state. Because hospitals trustees bear the responsibility of not only insuring that hospitals are participating in responsible public reporting but also insuring the delivery of high quality care, hospital trustees must be able to have the latitude to probe deeply into hospital processes and assessments without fear of revealing sensitive patient information. To this end, **the Iowa Hospital Association supports an exception to the open meetings and public records laws to allow public hospitals to discuss quality process improvements.**

Summary

The Iowa Hospital Association supports two amendments to the open meetings laws regarding public hospitals: strategic planning and process improvements. These statutory changes may be more appropriate in the Iowa Code Chapters governing public hospitals, but due to the nature of the policy change, IHA felt that the Freedom of Information, Open Meetings, and Public Records Study Committee needed to understand and consider the proposals.